



City of Albuquerque

Legislative File Number AC-06-11 (version 1)

INTER-OFFICE MEMORANDUM

May 19, 2006

AC-06-11 - 05EPC-01812, 05EPC-01813; Project #1003105 Mark Goodwin & Associates, P.A., agent for Alpha Equities, LLC (Rhett Waterman), appeals the Environmental Planning Commission's denial of a request for an Amendment to a Site Development Plan for Subdivision and a Site Development Plan for Building Permit for all or a portion of Tract A-2-A, The Plaza at Paseo del Norte, zoned C-2 (SC), located on Eagle Ranch Road NW between Paradise Boulevard NW and Irving Boulevard NW, containing approximately 7.5 acres. (C-13). Stephanie Shumsky, Staff Planner

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This is an appeal of the Environmental Planning Commission's (EPC) April 20, 2006 decision to deny an amendment to a site development plan for subdivision and a site development plan for building permit to develop an approximately 7.5-acre site within The Plaza at Paseo del Norte Shopping Center. The Planning Department recommended denial of the request and the EPC voted 5 to 2 to deny the request.

STANDING:

Alpha Equities, LLC (Rhett Waterman) is the Contract Purchaser of the subject site and is the applicant for the EPC request and therefore has standing to bring the appeal forward.

GROUND FOR APPEAL:

The appellant does not clearly articulate the reasons for the appeal as required by Zoning Code Section

14-16-4-4 (B)(3). The appellant *does not* claim or allege one or more of the following errors as reason for the appeal:

The EPC erred...

- a. In applying adopted city plans, policies, and ordinances in arriving at the decision
- b. In the appealed action or decision, including its stated facts
- c. In acting arbitrarily or capriciously or manifestly abusive of discretion.

Below is the appellant's argument (**summarized in bold text**) followed by responses from the City of Albuquerque Planning Department:

"It appears that the proposed land use was the element that was objectionable and the reason for the denial. The land use had been established as a conditional use by ZHE." ...

"The application was for an amendment to the approved site plan for subdivision for Tract A-2-A of the Plaza at Paseo del Norte and a site plan for building purposes. Land use was not part of the application. We feel that the proposal as submitted was not given the review as a site plan but more appropriate for a zone change."

The findings for denial of this case clearly articulate the reasons for denial. The findings acknowledge that a conditional use to allow 43 dwelling units was approved for the site by the ZHE. The findings also state how the proposed layout conflicts with a preponderance of City goals and policies. The findings clearly indicate that the EPC did not deny the request based on the use but because of the layout and its detrimental effect on the surrounding area and shopping center in which the subject site is located.

Specifically, the request proposed a development that:

- 1) Lacked connectivity between adjacent parcels (connectivity is required by the underlying site development plan for subdivision)
- 2) Lacked intensity and scale (the Comprehensive Plan's Activity Center goal encourages high density development)
- 3) Lacked compatibility with adjacent uses
- 4) Does not comply with the EPC approved site development plan for subdivision for the Plaza at Paseo Shopping Center (Z-83-93-1).

During the course of the EPC hearing, there was some discussion about the appropriateness of the use at the subject site. Concern was expressed by some commissioners that such a low-density residential product may not be well suited to a C-2 Shopping Center designated site. However, the findings approved by the EPC state the many reasons for the denial and focus on the site layout proposed by the applicant and not on the appropriateness of the use.

The applicant is entitled to develop residential uses at the subject site per the conditional use permit. However, the ZHE Notification of Decision states: "Successful applicants are reminded that other regulations of the City must be complied with even after approval of a special exception is secured." In this case, the layout does not comply with the existing site development plan for subdivision for the Plaza at Paseo and fails to further many City goals and policies.

CONCLUSION:

The EPC considered all relevant information for this case. They acted within their power and authority as granted them. The EPC reviewed these requests as they would for a site development plan for subdivision and a site development plan for building permit. The EPC found that the requests did not further a preponderance of the City's goals and policies regarding land use, activity centers, transportation, noise, developed landscape, community identity, and housing. The EPC did not err in applying adopted city plans, policies, and ordinances and did not act arbitrarily, capriciously or manifestly abusive of their discretion. The Planning Department supports the EPC's decision and recommends denial of the subject appeal.

APPROVED:

Russell Brito, Division Manager
Development Review Division
Planning Department

x:share/council/appeals/2006/ac-06-11